

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

**BARBARA SCHWAB *et al.*, individually and on behalf of all others similarly situated,**

**Plaintiffs,**

**V.**

**No. 1:04-cv-1945 (JBW) (SMG)**

**PHILIP MORRIS USA, INC., et al.,**

## Defendants.

## DECLARATION OF ARTHUR J. MARGULIES

I, Arthur J. Margulies, declare the following under penalty of perjury under the laws of the United States:

1. I am an associate at the law firm Jones Day, attorneys for defendant R.J. Reynolds Tobacco Company and Brown & Williamson Holdings, individually and as successor by merger to The American Tobacco Company. I submit this declaration to put before the Court true and correct copies of certain documents that are pertinent to Defendants' *Daubert* Motion To Exclude The Testimony Of Dr. John R. Hauser.

2. Attached to this declaration, under the identified exhibit tabs, are true and correct copies of the following documents:

Exhibit 1      Expert Witness Report of John R. Hauser dated December 19, 2005, and Exhibits D, E and F attached thereto.

Exhibit 2                      Draft Expert Witness Report of John R. Hauser dated  
December 16, 2005.

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|------------|------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit 3  | Draft Expert Witness Report of John R. Hauser dated December 19, 2005.                                                             |
| Exhibit 4  | Deposition Transcript of John R. Hauser, dated March 23, 2006 (excerpts).                                                          |
| Exhibit 5  | Exhibit 13 to Deposition of John R. Hauser, dated March 23, 2006.                                                                  |
| Exhibit 6  | Exhibit 24 to Deposition of John R. Hauser, dated March 23, 2006.                                                                  |
| Exhibit 7  | Deposition Transcript of John R. Hauser, dated March 24, 2006 (excerpts).                                                          |
| Exhibit 8  | Deposition Transcript of John R. Hauser, dated May 19, 2006 (excerpts).                                                            |
| Exhibit 9  | Deposition Transcript of Steven P. Gaskin dated May 9, 2006 (excerpts).                                                            |
| Exhibit 10 | Deposition Transcript of Shelley R. Schussheim dated May 10, 2006 (excerpts).                                                      |
| Exhibit 11 | Summary of Expert Opinions of Dr. Wayne S. DeSarbo dated May 24, 2006.                                                             |
| Exhibit 12 | Expert Report of James J. Heckman dated May 25, 2006.                                                                              |
| Exhibit 13 | David W. Stewart Expert Rebuttal Report dated May 23, 2006.                                                                        |
| Exhibit 14 | Expert Disclosure of W. Kip Viscusi dated May 23, 2006.                                                                            |
| Exhibit 15 | Expert Report of William Wecker dated May 26, 2006.                                                                                |
| Exhibit 16 | Morbidity and Mortality Weekly Report, <i>Cigarette Smoking Among Adults - United States, 2004</i> .                               |
| Exhibit 17 | Letter from Brent W. Landau to Paul Koethe dated January 23, 2006.                                                                 |
| Exhibit 18 | Letter from Brent W. Landau to The Honorable Steven M. Gold dated February 9, 2006.                                                |
| Exhibit 19 | Plaintiffs' Objections to the Magistrate Judge's Order Regarding Production of Materials Related to Dr. Hauser's Attempted Survey. |

Exhibit 20	Exhibit 20 to Deposition of John R. Hauser, dated March 23, 2006.
Exhibit 21	Deposition Transcript of Jeffrey E. Harris dated March 9, 2006 (excerpts).
Exhibit 22	Memorandum and Order dated September 21, 2005.
Exhibit 23	Memorandum and Order dated October 6, 2005.
Exhibit 24	Transcript of Hearing dated September 12, 2005 (excerpts).
Exhibit 25	Transcript of Hearing dated September 13, 2005 (excerpts).
Exhibit 26	Transcript of Hearing dated March 17, 2006 (excerpts).
Exhibit 27	Transcript of Hearing dated May 26, 2005 (excerpts).
Exhibit 28	Transcript of Hearing dated August 31, 2005.
Exhibit 29	Declaration of David W. Stewart dated July 22, 2005 (excerpts).
Exhibit 30	Defendants' Opposition to Plaintiffs' Motion for Class Certification (excerpts).
Exhibit 31	Deposition Transcript of John C. Beyer dated June 2, 2005 (excerpts).
Exhibit 32	Declaration of Bruce Neidle dated June 30, 2005.
Exhibit 33	Plaintiffs' Motion for Class Certification dated February 28, 2005.
Exhibit 34	E-mail from Shelley R. Schussheim to John Hauser dated February 16, 2005
Exhibit 35	Transcript of Hearing dated November 18, 2005 (excerpts).
Exhibit 36	Transcript of Civil Cause for Telephone Conference dated October 26, 2005 (excerpts).

3. I declare under penalty and perjury that the foregoing is true and correct.

Executed on: June 9, 2006  
New York, New York

/s/ Arthur J. Margulies

Arthur J. Margulies

**CERTIFICATE OF SERVICE**

The foregoing DECLARATION OF ARTHUR J. MARGULIES was served on counsel for plaintiffs on June 9, 2006 by electronic mail through the Court's CM/ECF system.

A handwritten signature in dark ink, reading "Todd R. Geremia". The signature is written in a cursive style with a large, stylized initial "T".

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Todd R. Geremia